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November 2, 2017
Plan for the Day

- Reading Quiz
- Go over learning outcomes
- Announcements
- Answer questions from lecture this week
- Discuss Toobin (2012) *The Oath*
- Review for the midterm
Reading Quiz

- Clearly write your name at the top of the quiz
- Turn your quiz over when you are finished
- Good luck!
Learning Outcomes

By the end of section today, you should be able to:

- Describe the key points of what the Affordable Care Act is/does and the key points in the ACA’s development
- Define the following terms and explain their significance in the Supreme Court’s ruling on the ACA
  - Commerce clause
  - Enumerated power
- Explain the Supreme Court’s opinion in the ACA case
  - Explain the logic used (e.g. commerce clause or enumerated power to tax?)
  - Explain the outcome (e.g. was the ACA upheld?)
  - Explain the significance (e.g. role of the court?)
Announcements

- Midterm exam is on Monday, November 6th in class
- Feel free to email me if you have questions between now and then (tncarlson@ucsd.edu) or submit questions online
- Participation grade updates will go up on TritonEd soon
- **Optional:** Rough draft of paper due next week in section (11/9/17). Email to me or turn in hard copy in section.
What questions do you have from lecture this week?
What is the Affordable Care Act?
What does the Affordable Care Act do?

3 Goals: (Source: https://www.healthcare.gov/glossary/affordable-care-act/)

- "Make affordable health insurance available to more people" through subsidies for households between 100% and 400% of the federal poverty level.
- "Expand the Medicaid program to cover all adults with income below 138% of the federal poverty level."
- "Support innovative medical care delivery methods designed to lower the costs of health care generally."

Read the full text here: https://www.healthcare.gov/where-can-i-read-the-affordable-care-act/
What does the Affordable Care Act do?

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Key Components in the ACA

- Individual Insurance (can't deny coverage based on preexisting conditions; subsidies; etc.)
- Mandates
  - Individuals are required to have insurance or pay a penalty/tax
  - Businesses with 50+ employees must offer health insurance or pay a tax penalty
- Insurance Standards (certain services must be covered)
- Exchanges (regulated marketplaces administered by state or federal government where people can purchase insurance)
- State Waivers (states can try their own health care plans as long as they're as comprehensive as the ACA)
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Signed, Sealed, Delivered

APPROVED
MAR 2 3 2010

Barack Obama
The Final Say: The Supreme Court

- Remind me:
  - Enumerated Power
  - Commerce Clause
  - Power to Tax
The Final Say: The Supreme Court

- Remind me:
  - Enumerated Power
  - Commerce Clause
  - Power to Tax

- Government’s argument?
Remind me:
- Enumerated Power
- Commerce Clause
- Power to Tax

Government’s argument?
Opposition’s argument?
Individual mandate does not regulate existing commercial activity → unconstitutional under the Commerce Clause

Individual mandate is upheld within Congress’s enumerated power to lay and collect taxes → constitutional under tax power
What does this mean?

But the Court does not express any opinion on the wisdom of the Affordable Care Act. Under the Constitution, that judgment is reserved to the people.
“But the Court does not express any opinion on the wisdom of the Affordable Care Act. Under the Constitution, that judgment is reserved to the people.”
Questions to Ponder

- Toobin explains that Roberts was balancing dual goals: 1) to push his own ideological agenda; and 2) to preserve the Court’s place as the final arbiter.
  - Do you think the outcome of the ACA case would have been different if someone else had been the Chief Justice, perhaps one of the more liberal justices?
  - Thinking more broadly about the role of the Court, what do you think about these two goals? When they are in conflict, which should be the higher priority?
  - Are these goals in line with the original vision of the Court as an independent judiciary?

- What does the Court’s involvement in the ACA tell us about the separation of powers in the US? What about checks and balances?

- Discuss the constitutionality of the ACA, specifically the individual mandate, using the three theoretical frameworks discussed in class: plain meaning of the text theory, original intent theory, and living constitution theory. Which theory best characterizes the Court’s opinion?